

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2
3 RESOLUTION NO. 2008- 724

4
5 **A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER**
6 **MANAGEMENT DISTRICT REAFFIRMING STATE INTENTIONS, COMMITMENTS AND**
7 **ASSURANCES REGARDING EAA RESERVOIR PROJECT; PROVIDING AN**
8 **EFFECTIVE DATE**
9

10 WHEREAS, additional reservoir storage capacity in the Everglades Agricultural
11 Area (EAA) has long been viewed by the State of Florida as a crucial and necessary
12 component of its ecosystems restoration planning. The concept of Regional EAA
13 Reservoir Storage, developed throughout the late 1980s and early 1990s, became part of
14 Florida's Conceptual Plan for the Restudy of the Central and Southern Florida Project for
15 Flood Control and Other Purposes developed by the Governor's Commission for a
16 Sustainable South Florida, and
17

18 WHEREAS, the U.S. Congress enacted the Water Resources Development Act of
19 2000 (WRDA 2000) that adopted a multi-decadal, multi-billion Comprehensive Everglades
20 Restoration Plan (CERP). The CERP built upon the Florida's Conceptual Plan for the
21 Restudy of the C&SF and contemplated several key projects including proposed regional
22 EAA Storage Reservoirs; and
23

24 WHEREAS, the WRDA 2000 created a detailed framework guiding the
25 development, final authorization, federal funding and local sponsorship of CERP projects.
26 For each project ultimately implemented under the CERP, the U.S. Army Corps of
27 Engineers (Corps) is to develop a specific Project Implementation Report (PIR) to be
28 submitted for final approval by the Secretary of the Army and Congress; thereafter,
29 Congress must appropriate federal funds, followed by the approval of the South Florida
30 Water Management District (District) and execution of a Project Cooperation Agreement
31 (PCA) that commits the state and federal governments to share the costs of project
32 implementation and operation; and
33

34 WHEREAS, Congress intended the CERP to integrate with ongoing and future
35 State and local water management programs and responsibilities, and did not expressly
36 limit independent State and local restoration initiatives; rather, Congress embraced the
37 State and local efforts as part of an adaptive framework; and
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39 WHEREAS, the federal procedures created by the WRDA 2000 and associated with
40 CERP have proven cumbersome, leading to considerable project construction delays. The
41 Corps recently announced its plans to revisit and revise the programmatic regulations for
42 the implementation of CERP, and the CERP EAA Storage Reservoirs' PIR remains
43 significantly delayed and in development by the Corps; and
44

1 WHEREAS, due to the delays in WRDA implementation, the lack of federal funding,
2 and the State of Florida's desire to expedite progress in Everglades restoration, the State
3 of Florida and the District entered into a Memorandum of Agreement, in October 2004, to
4 accelerate environmental restoration through early design and construction of eight
5 Everglades restoration projects, as recognized in the federal CERP and in prior State
6 plans, capable of providing immediate, system-wide benefits; and
7

8 WHEREAS, by issuing Certificates of Participation—a funding technique never
9 before utilized for environmental restoration—the District generated \$572 million to begin
10 building Acceler8 projects. The State of Florida invested approximately \$757 million, which
11 includes approximately \$173 million of federal funding, to acquire 99 percent of the land
12 required for the Acceler8 initiative, and using these funds and lands, construction of the
13 EAA A-1 Reservoir project is under way as part of the Acceler8 initiative; and
14

15 WHEREAS, an unanticipated and extraordinary opportunity arose to acquire the
16 assets of the U.S. Sugar Corporation, including substantial land areas in the Everglades
17 Agricultural Area. The land acquisition may lead to future modifications to the design of
18 Acceler8 projects, or potentially the CERP, but negotiations over the potential land
19 acquisition are ongoing, and effects upon Everglades restoration remain uncertain; and
20

21 WHEREAS, the District remains committed to protecting water identified for the
22 natural system not only under CERP but also under its suite of restoration programs,
23 including Acceler8. Some members of the public have expressed a desire for certainty
24 and consistency in the procedures related to Acceler8 and the WRDA 2000, including, in
25 particular, the development and use of Project Implementation Reports; and
26

27 WHEREAS, the District has taken significant steps to assure the public of its
28 commitments to restoration and the priority given to protecting water, including:
29

- 30 1. The District committed itself in the permitting process to conditions that
31 ensure water made available by the EAA A-1 Reservoir will be protected first
32 and foremost for the natural systems;
33
- 34 2. The District adopted a Regional Water Availability Rule to protect water for
35 the Everglades from consumptive use within the Lower East Coast Service
36 Areas 1, 2, and 3, including water from the EAA Reservoir Phase I project
37 that is identified for the natural system;
38
- 39 3. In July 2007, the District Governing Board adopted a resolution to clarify
40 state assurances of project benefits for CERP-related projects being fast-
41 tracked through Acceler8 initiatives; and
42
- 43 4. The District authorized Notice of Rulemaking for the Lake Okeechobee
44 Service Area, where the EAA Reservoir Phase I project is located, to limit
45 consumptive use withdrawals from Lake Okeechobee.
46

1 **NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH**
2 **FLORIDA WATER MANAGEMENT DISTRICT:**

3
4 **Section I.** The District remains committed to the federal-state partnership implementing
5 the CERP, and intends to follow the process set forth in the WRDA 2000 and its
6 regulations, as amended, for CERP projects, as implemented.
7

8 A. The District will continue to support the Corps' efforts to complete the draft and final
9 PIR for CERP projects, as set forth in the WRDA of 1996 and 2000, as amended.
10

11 B. The District understands that, at this time, a draft PIR for a phase of the CERP EAA
12 Reservoir Storage project is expected to be completed by February 2009 and a final PIR is
13 expected to be completed by September 2009.
14

15 C. The District will ensure that water will be identified for the natural system as
16 appropriate and consistent with the final PIR.
17

18 **Section II.** The District remains committed to restoring the Everglades, and if the
19 District proceeds with Everglades restoration through alternative mechanisms to the
20 CERP, such as the Acceler8 initiative or any alternative initiative arising from the potential
21 U.S. Sugar Corporation acquisition, then:
22

23 A. The District will continue to coordinate with the Corps to ensure that the EAA
24 reservoir project construction, whether pursuant to the Acceler8 initiative or otherwise,
25 remains consistent with the CERP EAA Phase 1 reservoir; and
26

27 B. If the District seeks to operate an EAA reservoir based on independent state
28 authority, the District will base any future reservation or allocation of water for the project,
29 and its operating plans, on the draft of the CERP PIR, provided that the draft PIR is
30 otherwise consistent with state and federal laws and obligations; and
31

32 C. If and when a Final PIR is completed, the District shall amend its operating plans for
33 the EAA reservoir to be consistent with the Final PIR and the objectives of the CERP EAA
34 Phase 1 reservoir.
35

36 **Section III.** Regardless of whether additional reservoir storage is attained through a
37 project pursuant to the CERP, through the Acceler8 initiative pursuant to independent state
38 authority, or through any other modified project or authority that might result from the
39 ongoing negotiations to purchase land assets of the U.S. Sugar Corporation, the District
40 remains committed to the principles set forth in the District's July 2007 Resolution No.
41 2007-738.

1 **Section IV.**

2
3 A. Nothing in this resolution shall be interpreted to amend, alter, prevent, or otherwise
4 abrogate existing rights or obligations under state and federal law.

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6 B. This resolution shall take effect immediately upon adoption.

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9 **PASSED** and **ADOPTED** this 10 day of July 2008.

10
11 Approved:
12 Legal Form Approved

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT

13
14
15 By:

16 By:
 Chairperson

17 (Corporate Seal)

ATTEST:

18
19 By:
20 Assistant Secretary

